

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 360 Session of 1993

INTRODUCED BY MURPHY, DeWEESE, OLASZ, VEON, MUNDY, TIGUE, KENNEY, GEIST, MELIO, RICHARDSON, CIVERA, ITKIN, STISH, KREBS, KELLER, BUNT, TRELLO, HALUSKA, GIGLIOTTI, SCRIMENTI, SAURMAN, COLAFELLA, KING, HUGHES, JOSEPHS, M. N. WRIGHT, CAWLEY AND BARLEY, FEBRUARY 10, 1993

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 10, 1993

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for the release of
3 certain information to adoptees; and providing for the
4 transfer of certain adoption records.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 2905 of Title 23 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 2905. Impounding of proceedings and access to records.

10 (a) General rule.--All petitions, exhibits, reports, notes
11 of testimony, decrees, and other papers pertaining to any
12 proceeding under this part or former statutes relating to
13 adoption shall be kept in the files of the court as a permanent
14 record thereof and withheld from inspection except on an order
15 of court granted upon cause shown or except as otherwise
16 provided in this section. Any report required to be filed under
17 sections 2530 (relating to home study and preplacement report),

1 2531 (relating to report of intention to adopt) and 2535
2 (relating to investigation) shall be made available to parties
3 to an adoption proceeding only after all identifying names and
4 addresses in the report have been extirpated by the court.

5 (b) Petition to court for limited information.--Upon
6 petition by any adoptee at least 18 years of age or, if less
7 than 18, his adoptive parent or legal guardian to the court in
8 the judicial district in which the permanent records relating to
9 the adoption have been impounded, the court shall furnish to the
10 adoptee as much information concerning the adoptee's natural
11 parents as will not endanger the anonymity of the natural
12 parents. The information shall first be reviewed, in camera, by
13 the court to insure that no information is revealed which would
14 endanger the anonymity of the natural parents. The court shall,
15 upon motion of the adoptee, examine the entire record to
16 determine if any additional information can safely be revealed
17 without endangering the anonymity and the rights of privacy of
18 the natural parents.

19 (c) Access to identity of natural parents.--

20 (1) Upon petition of an adoptee at least 18 years of age
21 or, if less than 18, his adoptive parent or legal guardian,
22 the court may also, through its designated agent, attempt to
23 contact the natural parents, if known, to obtain their
24 consent to release their identity and present place of
25 residence to the adoptee. The petition may state the reasons
26 why the adoptee desires to contact his natural parents, which
27 reasons shall be disclosed to the natural parents if
28 contacted. However, the court and its agents shall take care
29 that none but the natural parents themselves are informed of
30 the adoptee's existence and relationship to them. The court

1 may refuse to contact the natural parents if it believes
2 that, under the circumstances, there would be a substantial
3 risk that persons other than the natural parents would learn
4 of the adoptee's existence and relationship to the natural
5 parents. The court shall appoint either the county children
6 and youth agency, or a private agency which provides adoption
7 services in accordance with standards established by the
8 Department of Public Welfare, to contact the natural parents
9 as its designated agent.

10 (2) In addition to petitioning the court to contact the
11 natural parents, an adoptee at least 18 years of age or, if
12 less than 18, his adoptive parent or legal guardian may
13 request the agency that placed the adoptee to contact his
14 natural parents. If the agency agrees to attempt to contact
15 the natural parents, it shall do so pursuant to the same
16 safeguards provided for court inquiries in paragraph (1).

17 (3) If the court or an agency contacts the natural
18 parents of an adoptee pursuant to a petition or request made
19 under paragraph (1) or (2), except as hereinafter provided,
20 information relating to both natural parents shall only be
21 disclosed to the adoptee if both natural parents agree to the
22 disclosure. If both of the natural parents are deceased,
23 their identities may be disclosed and natural siblings of the
24 adopted person may be contacted. If one parent is deceased,
25 his or her identity may be disclosed. If only one parent
26 agrees to the disclosure, then only the information relating
27 to the agreeing parent shall be disclosed.

28 (4) The Department of Public Welfare may, by regulation,
29 prescribe procedures related to contact of natural parents by
30 designated agents of the court.

(d) Disclosure of information on original certificate of birth.--

(1) No disclosure of information shall be made by the court, an agency, the Department of Health or any other Commonwealth agency regarding the adopted person's original certificate of birth or regarding the documents of proof on which the amended certificate of birth is based or relating in any way to the natural parents unless the disclosure is made pursuant to the provisions of this section.

(2) Notwithstanding any other provision in this section to the contrary, the natural parents may, at the time of the termination of their parental rights pursuant to Chapter 25 (relating to proceedings prior to petition to adopt) or at any time thereafter, place on file, with the court and with the Department of Health, a consent form granting permission for the court or the department to disclose the information contained in the adoptee's original certificate of birth, or any other identifying or nonidentifying information pertaining to the natural parents, or nonidentifying information pertaining to other members of the natural parents' families, including any subsequently discovered medical history or problems, at any time after the adoptee attains the age of 18 or, if less than 18, to his adoptive parent or legal guardian. If both parents give their consent, the information on the birth certificate may be disclosed. If only one parent gives consent, only the identity of the consenting parent shall be disclosed. The natural parents shall be entitled to update those records, as necessary, to reflect the natural parent's current address or any other information pertaining to the natural parents or the natural

1 parents' families. The information may only be disclosed upon
2 the request of the adoptee or his adoptive parent or legal
3 guardian, and the consent of the natural parents may be
4 withdrawn at any time by filing a withdrawal of consent form
5 with the court and the department. The department shall
6 prescribe by regulation the procedure and forms to be
7 utilized for the giving, updating and withdrawal of the
8 consent.

9 (e) Disclosure of updated health, social and genetic history
10 reports.--

11 (1) All parties to the adoption triad, that is, the
12 adopted person, the natural parents and the adoptive parents,
13 and the adult members of their respective families and the
14 adoption intermediary, shall be permitted to file, with the
15 court and the adoption agency which arranged the adoption,
16 updated reports pertaining to the health, social and genetic
17 history of the adopted person, the natural parents and the
18 families of the natural parents.

19 (2) The reports shall be impounded with the record of
20 the adoption of the adopted person. Nonidentifying
21 information contained therein shall be made available to the
22 adopted person or, if less than 18 years of age, his adoptive
23 parent or guardian, upon petition filed in accordance with
24 subsection (b).

25 (3) Notwithstanding any other provision in this section
26 to the contrary, the reporting party may petition the court
27 to appoint an agent to convey identifying or nonidentifying
28 information about a condition of immediacy, necessity or
29 importance to the unknowing and potentially affected member
30 of the adoption triad or, in the case of a person less than

1 18 years of age, the adoptive parent or legal guardian. The
2 petition must be accompanied by a report by an independent
3 physician, other licensed professional or a qualified person
4 as identified by the court, setting forth the nature of the
5 condition and the reasons why the information should be
6 conveyed to other members of the adoption triad. The report
7 shall not provide any information revealing the identity of
8 the person about whom the report is made, shall set forth the
9 address and telephone number of the reporter and shall bear a
10 reference to either the name of the adopted person at birth
11 or after adoption. The court, after an in camera review of
12 the petition and any supporting documents, shall decide
13 whether to appoint an agent to contact a member of the
14 adoption triad. The court may retain the services of its own
15 expert to review the case, may request additional information
16 from the petitioner or physician and may order the petitioner
17 to attend an in camera hearing on the request for an order to
18 disclose certain information.

19 (4) (i) The court shall appoint the county children and
20 youth agency, or a private agency which provides adoption
21 services in accordance with standards established by the
22 Department of Welfare, to contact the subject of the
23 court order as its designated agent. In the case of a
24 private adoption, the court shall appoint, if possible,
25 the attorney who handled the adoption to serve as a co-
26 agent with the licensed agency to make contact with the
27 subject of the court order.

28 (ii) The agent shall file regular reports with the
29 court on the status of the search and shall consult with
30 the court and obtain additional orders, if necessary.

1 (iii) The reasonable costs of the agent to conduct
2 the search and to make contact with the subject of the
3 court order shall be submitted to the court and, upon
4 approval, shall be paid from the court funds.

5 Section 2. Title 23 is amended by adding a section to read:

6 § 2911. Transfer of adoption agency records.

7 (a) Notification of court.--

8 (1) After the effective date of this section, each
9 adoption agency which plans to terminate operations by
10 closure or by sale to an entity other than another adoption
11 agency or to move records to another county due to
12 reorganization of the adoption entity or spatial constraints
13 shall, at least 90 days prior to the end of operations,
14 notify the court of common pleas of the county in which the
15 principal offices of the adoption agency are located of the
16 proposed termination of operations. The notification shall
17 contain a plan relating to the disposition of the adoption
18 agency's records. The plan shall be a brief explanation of
19 the quantity and format of the records to be transferred, a
20 provision for lending staff and amount of available funding
21 to a successor agency for the incorporation of the first
22 agency's records into those of the successor agency.

23 (2) If the adoption agency has no plan for record
24 disposition, the adoption agency shall request the court to
25 determine an appropriate record disposition plan. The court
26 shall review the records and direct another adoption agency
27 or the county office of children and youth to take control of
28 the records. The court shall also direct the closing adoption
29 agency to provide sufficient funds to the new recordkeeper to
30 cover the necessary expenses of delivering the records into

appropriate storage areas, educating the successor staff and converting the records into an accessible format.

(b) Attorneys.--

(1) Any attorney or personal representative of his estate who handles adoption proceedings or arranges adoptions shall, upon discontinuing practice, request the court to take control of any accumulated adoption records.

(2) The court shall direct the disposition of the records in accordance with subsection (a)(2).

(c) Public information.--

(1) The name and change of name of any adoption agency or successor or other repository for adoption records shall be maintained in a file at the Bureau of Licensing of the Department of Welfare, in the county office of children and youth and in the adoption department of the county orphans' court.

(2) The name and change of name of any adoption agency or successor or other repository for adoption records shall be made available to the public in a form as the court shall direct.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Adoption agency." Any private agency which provides any or all of the adoption services set forth in 55 Pa. Code § 3350.2 (relating to definition of services).

"Records." Any relevant recorded information relating to a child available for adoption, the natural parents of the child, the natural siblings of the child, the health and medical records of the child and natural family, the birth certificate

1 of the child and any other recorded information relating to the
2 child, including, but not limited to, placement history, foster
3 care, orphanage history, maternity history, school history,
4 cross references to other files ongoing in agencies,
5 photographs, negatives of photographs and VCR cassettes. Any
6 photographic material must be saved even though the paper files,
7 pursuant to plan for disposition after the 50 years set forth by
8 the Department of Public Welfare, have been placed onto
9 microfilm. The term includes the detailed explanation, such as a
10 master index or software package, necessary to access and
11 retrieve records.

12 Section 3. This act shall take effect in 60 days.